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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,016	11/21/2003	Raymond V. Damadian	DAMADIAN 3.0-080	5664
530 7590 05/12/2009 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			EXAMINER CHENG, JACQUELINE	
			ART UNIT 3768	PAPER NUMBER
			MAIL DATE 05/12/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/721,016

Applicant(s)

DAMADIAN, RAYMOND V.

Examiner

JACQUELINE CHENG

Art Unit

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/27/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-16 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-16, 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 27, 2009 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 8-11, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olympia Orthopaedic Associates (<http://www.olyortho.com/about/history.php>) in view of Rassman (US 4,937,743)

5. **Claims 1-5, 8-10:** To have multiple MRI scanners at one facility is well known in the art in order to be able to process as many patients as possible in as short of a time as possible. In particular having both an extremity MRI scanner and a full body MRI scanner at a facility has been in public use in this country for more than one year prior to the date of application for patent in the United States by Olympia Orthopaedic Associates. Olympia Orthopaedic Associates discloses adding a Full-Body Open MRI to its practice in 1993, and an extremity MRI scanner in 1998 (see <http://www.olyortho.com/about/history.php>). Although Olympia Orthopaedic Associates does not explicitly disclose a system for selectively directing patients to a particular scanner it would be obvious to one skilled in the art to need and to use any well know system for directing patients known in the art such as disclosed by Rassman. Rassman discloses a system for providing information about availability of resources (such as MRI scanners) and a method of efficient and effective use of the resources (col. 1 line 27-35, col. 2 line 59-65). Information about each patient as they are received or need to schedule an appointment such as the procedure (scan) to be performed is inputted at a computing station and a listing of the resource such as the pieces of equipment that are capable of performing the procedure (such as either only a whole body scanner, or both a whole body scanner or a extremity scanner) is shown (col. 5 line 4-8, col. 5 line 30-31). The system then further computes the availability of the resources and schedules the patients to the scanners in a most efficient way of using the resources by following various established rules (col. 3 line 27-28, col. 4 line 58-65, col. 6 line 51-60). The system further helps efficiency by if a scheduled procedure ends early, letting the operator know so that the patient can be directed earlier to the machine so that the machines are being used most efficiently (col. 12 line 54-63).

6. **Claims 11 and 15:** A magnetic imaging apparatus with a magnet defining a horizontal field axis and an imaging volume surrounding the axis having a vertical and horizontal direction is inherent in any MR system.

7. **Claims 6, 12-14, 16, and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Olympia Orthopaedic Associates in view of Rassman as applied to claims 1 and 10 above, and further in view of Damadian (US 6,414,490 B1).

8. Damadian et al. discloses an MRI that can position a patient through a range of orientations from a horizontal to a vertical position (abstract). The positioning device also has a variety of retractable pieces to orientate the patient in any desired orientation relative to the frame, such as in a seated position or a standing position with a footrest to orient the patient in a weight bearing position (col. 5 line 17-25). The device also has the ability to move the patient upwardly and downwardly to allow scanning of essentially any part of the patient (such as the foot) (col. 6 line 8-15). This mobility is achieved by the use of an elevator. Although the device has the ability to move the patient in a range of up to five or six feet, if the area of interest to be imaged is a head or chest, then the support is limited to a range of motion less than 1.5 feet. It would be obvious to combine Damadian with Olympia Orthopaedic Associates as it would be obvious to use any well known full-body open MRI imaging system as the full-body open MRI imaging system in Olympia Orthopaedic Associates.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JACQUELINE CHENG whose telephone number is (571)272-5596. The examiner can normally be reached on M-F 10:00-6:30.
10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on 571-272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JC

/Long V Le/
Supervisory Patent Examiner, Art Unit 3768